IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO. 568 (SB) OF 2002

Prem Singh Tomar,
S/o Sri Jeet Singh Tomar
R/o Village Dhakowala Post Ambari,
District Dehradun. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary Ministry of Irrigation, Civil Secretariat, Dehradun.
2. State of U.P. through its Principal Secretary, Ministry of Irrigation, Civil Secretariat, Lucknow.
3. Chief Engineer, Irrigation Department, Yamuna Colony, Dehradun.
4. Superintending Engineer, Irrigation Department Lakhwar Bayasi, Construction Division-1 Dehradun.
5. Executive Engineer Testing and Control Division Dak Patthar, Dehradun. .....Respondents.

Sri S.S. Yadav, Advocate for the petitioner.
Learned Standing Counsel for the respondents no. 1, 3 to 5.

Dated: 02.03.2006

Hon'ble Rajesh Tandon, J.

By the present writ petitions, the petitioner has prayed for a writ of mandamus commanding the respondents to regularize the services of the petitioner from the year 28.12.1972 on which date the petitioner completed 4 years continuous service and for the grant of pensionery and other retiral benefits and his services may be counted from the date of his initial appointment.

2. Brief facts giving rise to the present writ petition are that the petitioner was appointed on 28.12.1968 on the post of Work

Charge Supervisor in the establishment as Yamuna Pariyojana which was sponsored by the State of U.P.

3. At the time of retirement, the petitioner was working as Work Charge Supervisor in the Testing and Control Division Dak Patthar, Irrigation Department, Dehradun and after attaining the age of superannuation the petitioner retired on 01.03.2000.

3. Learned counsel for the petitioner has submitted that the qualification for the post of a Work Charge Supervisor and the regular Employee is same and the nature of work is also same, therefore, the work charge employee is also entitled for the same benefit as is given to the regular employees.

4. The petitioner was initially appointed on 28.12.1968 as work charge Supervisor, but the grievances of the petitioner is that he is not being paid retiral dues.

5. The petitioner has also referred the judgment of ***Haryana Vs. Pyara Singh, AIR 1992 SC 2130.*** The relevant observation is quoted below:-

"So far as the work charged employees and casual labour are concerned, the effort must be to regularize them as far as possible and as early as possible subject to their fulfilling the qualifications, if any, prescribed for the post and subject also to availability of work. If a casual labour is continued for a fairly long spell-say two or three years- a presumption may arise that there is regular need for his services. In such situation it becomes obligatory for the concerned authority to examine the feasibility of his regularization. While doing so the authorities ought to adopt a positive approach coupled with an empathy for the person. As has been repeatedly stressed by this Court security of tenure is necessary for an employee to give his best to the job."

6. In view of the aforesaid facts, the writ petition is allowed. The respondents are directed to pass appropriate orders regarding the retiral benefits payable to the petitioner, the amount due, if any, shall be released forthwith within a period of six weeks form the filing of the certified copy of the order.

7. No order as to costs.

(Rajesh Tandon, J.)

02.03.2006

Rathour